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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **David Allen Padilla, M.D.** **568 N. Sunrise Ave., Ste. 250** **Roseville, CA 95661** **Physician's and Surgeon's Certificate No. G 73271,** Respondent.	Case No. 800-2017-035835 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about January 14, 1992, the Medical Board issued Physician's and Surgeon's Certificate No. G 73271 to David Allen Padilla, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides in pertinent part that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states, in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

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6. Section 2266 of the Code states, in pertinent part:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

PERTINENT DRUG INFORMATION

7. Alprazolam – Generic name for the drug Xanax. Alprazolam is a short-acting benzodiazepine used to treat anxiety, and is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14. Alprazolam is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule IV controlled substance pursuant to California Health and Safety Code section 11057(d).

8. Clonazepam – Generic name for Klonopin. Clonazepam is an anti-anxiety medication in the benzodiazepine family used to prevent seizures, panic disorder, and akathisia. Clonazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c). It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

9. Diazepam – Generic name for Valium. Diazepam is a long-acting member of the benzodiazepine family used for the treatment of anxiety and panic attacks. Diazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

10. Hydrocodone bitartrate with acetaminophen – Generic name for the drugs Vicodin, Norco, and Lortab. Hydrocodone with acetaminophen is classified as an opioid analgesic combination product used to treat moderate to moderately severe pain. Prior to October 6, 2014, Hydrocodone with acetaminophen was a Schedule III controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.13(e). On October 6, 2014, Hydrocodone combination products were reclassified as Schedule II controlled substances. Federal Register Volume 79, Number 163, Code of Federal Regulations Title 21 section 1308.12. Hydrocodone with

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acetaminophen is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule II controlled substance pursuant to California Health and Safety Code section 11055, subdivision (b).

11. Dexmethylphenidate – Generic name for the drug Focalin, is a potent central nervous system (CNS) stimulant of the phenethylamine and piperidine classes, and is used in the treatment of attention deficit hyperactivity disorder (ADHD) and narcolepsy. Dexmethylphenidate is classified as a Schedule II controlled substance according to Federal Register Volume 79, Number 163, Code of Federal Regulations Title 21 section 1308.12. Dexmethylphenidate is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule II controlled substance pursuant to California Health and Safety Code section 11055, subdivision (b).

12. Lorazepam – Generic name for Ativan. Lorazepam is a member of the benzodiazepine family and is a fast-acting anti-anxiety medication used for the short-term management of severe anxiety. Lorazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

13. Morphine Sulfate – Generic name for the drugs Kadian, MS Contin, and MorphaBond ER. Morphine is an opioid analgesic drug. It is the main psychoactive chemical in opium. Like other opioids, such as oxycodone, hydromorphone, and heroin, morphine acts directly on the central nervous system (CNS) to relieve pain. With morphine sulfate (MS), the positive charge on the morphine molecule is neutralized by the negative charge on the sulfate. Because it is ionic, MS dissolves readily in water and body fluids, creating an immediate release. Morphine is a Schedule II controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.12. Morphine is a Schedule II controlled substance pursuant to Health and Safety Code 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022.

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14. Temazepam – Temazepam is a member of the benzodiazepine family and is used for the short-term treatment of insomnia. Temazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

15. Phentermine – Phentermine, also known as dimethylphenethylamine, is a psychostimulant drug of the substituted amphetamine chemical class, with pharmacology similar to amphetamine. It is used medically as an appetite suppressant for short-term use, as an adjunct to exercise and reducing calorie intake. Phentermine is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

16. Triazolam – Generic name for the drug Halcion. Triazolam is a central nervous system (CNS) depressant in the benzodiazepine class. It possesses pharmacological properties similar to those of other benzodiazepines, but it is generally only used as a sedative to treat severe insomnia. Triazolam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c) and Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

17. Respondent's license is subject to disciplinary action under section 2234, subdivision (b), of the Code, in that he committed gross negligence during the care and treatment of Patient A, Patient B, and Patient C. The circumstances are as follows:

Patient A:

18. On or about June 30, 2011, Respondent began prescribing medication to his relative, Patient A.[1] [2]

[1] Conduct alleged to have before March 20, 2012, is for informational purposes only.

[2] Patient names and information have been removed. All witnesses will be identified in discovery.

19. The Medical Board obtained certified pharmacy profiles pertaining to Patient A, from the dates of April 14, 2012, to December 29, 2017. During that time period, Respondent prescribed large amounts of a variety of controlled substances to Patient A. During the aforementioned time period, Respondent prescribed or re-filled the following controlled substances to Patient A:

Date Filled	Prescription	Quantity	Dosage	Schedule
April 14, 2012	Focalin XR	30 tablets	10 milligram	II
May 16, 2012	Focalin XR	30 tablets	15 milligram	II
June 20, 2012	Focalin XR	30 tablets	15 milligram	II
July 24, 2012	Focalin XR	30 tablets	15 milligram	II
August 27, 2012	Focalin XR	30 tablets	15 milligram	II
September 26, 2012	Focalin XR	30 tablets	15 milligram	II
October 27, 2012	Focalin XR	30 tablets	15 milligram	II
November 28, 2012	Focalin XR	30 tablets	15 milligram	II
December 31, 2012	Focalin XR	30 tablets	15 milligram	II
February 7, 2013	Focalin XR	30 tablets	15 milligram	II
March 14, 2013	Focalin XR	30 tablets	10 milligram	II
April 11, 2013	Focalin XR	30 tablets	15 milligram	II
October 14, 2015	Dexmethylphenidate HCL	30 tablets	5 milligram	II
May 15, 2017	Dexmethylphenidate HCL	30 tablets	5 milligram	II
June 13, 2017	Dexmethylphenidate HCL	30 tablets	5 milligram	II
July 14, 2017	Dexmethylphenidate HCL	30 tablets	5 milligram	II
August 22, 2017	Dexmethylphenidate HCL	30 tablets	5 milligram	II
September 20, 2017	Dexmethylphenidate HCL	30 tablets	5 milligram	II
October 23, 2017	Dexmethylphenidate HCL	30 tablets	5 milligram	II

Date Filled	Prescription	Quantity	Dosage	Schedule
November 24, 2017	Dexmethylphenidate HCL	30 tablets	2.5 milligram	II
November 24, 2017	Dexmethylphenidate HCL	30 tablets	5 milligram	II
December 29, 2017	Dexmethylphenidate HCL	30 tablets	5 milligram	II

20. During Respondent's care and treatment of Patient A, Respondent failed to maintain adequate and accurate medical records. Although Respondent provided care and treatment to Patient A and prescribed medication for him, Respondent failed to include any records of prescriptions for Patient A in Patient A's file.

21. On or about November 9, 2018, Respondent was interviewed by a Board Investigator. During the interview, Respondent stated the following regarding Patient A's medical information:

> "I had a chart at home that I kept track of and regularly completed and -- um -- at the beginning of the year, which was January, when he established with a new physician -- um -- I didn't want to keep the notes at home, he'd already established, I took it to the office and for whatever reason I just -- um -- I just sent it to shred, so I didn't keep the records."

Patient B:

22. On or about August 7, 2012, Respondent prescribed medication to his relative, Patient B. Specifically, he prescribed ten (10) tablets of clonazepam in 0.25 milligram doses to her. The medication was prescribed to Patient B, although he had not physically evaluated her. Additionally, Respondent failed to produce any notes regarding his care and treatment of Patient B.

Patient C:

23. On or about January 12, 2012, Respondent began prescribing medication to his relative, Patient C.

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24. The Medical Board obtained certified pharmacy profiles pertaining to Patient C, from the dates of January 28, 2013, to April 19, 2018. During that time period, Respondent prescribed or re-filled the following controlled substances to Patient C:

Date Filled	Prescription	Quantity	Dosage	Schedule
June 28, 2013	Phentermine HCL	30 tablets	15 milligram	IV
June 2, 2014	Phentermine HCL	30 tablets	15 milligram	IV
November 1, 2016	Diazepam	30 tablets	2 milligram	IV

25. During Respondent's care and treatment of Patient C, Respondent failed to maintain adequate and accurate medical records. Although Respondent provided care and treatment to Patient C and prescribed medication for her, Respondent failed to include any records of prescriptions for Patient C in Patient C's file.

26. Respondent committed gross negligence in his care and treatment of Patient A, Patient B, and Patient C, in that he failed to maintain adequate and accurate medical records regarding his care and treatment of Patient A, Patient B, and Patient C.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

27. Respondent's license is subject to disciplinary action under section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts during the care and treatment of Patient A, Patient B, and Patient C, as more fully described in paragraphs 17 through 26, above, and those paragraphs are incorporated by reference as if fully set forth herein. Respondent additionally committed repeated negligent acts during the care and treatment of Patient D. The circumstances are as follows:

28. In or about 1997, Respondent began treating Patient D, who suffered from bipolar disorder and chronic abdominal pain. Prior to Respondent's treatment of Patient D, she had already been on a regimen of opioid therapy, consisting of one (1) twenty (20) milligram dose of OxyContin, twice daily.

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29. Sometime before February of 2009, Respondent increased Patient D's dosage of OxyContin to one (1) forty (40) milligram dose, twice daily. In or about February of 2009, Respondent switched Patient D to a sixty (60) milligram dose of MS Contin every twelve (12) hours.

30. In or about May of 2009, Respondent began prescribing Patient D a sixty (60) milligram dose of Kadian, once a day. Respondent additionally began prescribing Patient D with intermittent one (1) milligram dosages of clonazepam, up to twice daily, as well as one (1) thirty (30) milligram dose of temazepam nightly.

31. The Medical Board obtained certified pharmacy profiles pertaining to Patient D, from the dates of April 3, 2012, to April 18, 2013. During that time period, Respondent prescribed large amounts of a variety of controlled substances to Patient D. Between April 3, 2012, and April 18, 2013, Respondent prescribed or re-filled the following controlled substances to Patient D:

Date Filled	Prescription	Quantity	Dosage	Schedule
April 3, 2012	Temazepam	30 tablets	30 milligram	IV
April 3, 2012	Clonazepam	60 tablets	1 milligram	IV
April 6, 2012	Morphine Sulfate	30 tablets	80 milligram	II
May 2, 2012	Temazepam	30 tablets	30 milligram	IV
May 2, 2012	Clonazepam	60 tablets	1 milligram	IV
May 8, 2012	Morphine Sulfate	30 tablets	80 milligram	II
May 30, 2012	Clonazepam	60 tablets	1 milligram	IV
May 31, 2012	Temazepam	30 tablets	30 milligram	IV
June 30, 2012	Temazepam	30 tablets	30 milligram	IV
July 7, 2012	Morphine Sulfate	30 tablets	80 milligram	II
July 18, 2012	Clonazepam	60 tablets	1 milligram	IV
August 3, 2012	Temazepam	30 tablets	30 milligram	IV
August 6, 2012	Morphine Sulfate	30 tablets	80 milligram	II

Date Filled	Prescription	Quantity	Dosage	Schedule
August 28, 2012	Clonazepam	60 tablets	1 milligram	IV
August 31, 2012	Temazepam	30 tablets	30 milligram	IV
September 6, 2012	Morphine Sulfate	30 tablets	80 milligram	II
September 28, 2012	Temazepam	30 tablets	30 milligram	IV
October 5, 2012	Morphine Sulfate	30 tablets	80 milligram	II
October 8, 2012	Clonazepam	60 tablets	1 milligram	IV
October 26, 2012	Temazepam	30 tablets	30 milligram	IV
November 6, 2012	Morphine Sulfate	30 tablets	80 milligram	II
November 27, 2012	Temazepam	30 tablets	30 milligram	IV
December 8, 2012	Morphine Sulfate	30 tablets	80 milligram	II
December 31, 2012	Clonazepam	60 tablets	1 milligram	IV
December 31, 2012	Temazepam	30 tablets	30 milligram	IV
January 7, 2013	Morphine Sulfate	30 tablets	80 milligram	II
January 29, 2013	Clonazepam	60 tablets	1 milligram	IV
February 5, 2013	Morphine Sulfate	30 tablets	80 milligram	II
February 11, 2013	Temazepam	30 tablets	30 milligram	IV
April 4, 2013	Temazepam	30 tablets	30 milligram	IV
April 5, 2013	Morphine Sulfate	30 tablets	80 milligram	II
April 26, 2013	Temazepam	30 tablets	30 milligram	IV
May 6, 2013	Clonazepam	60 tablets	1 milligram	IV
May 7, 2013	Morphine Sulfate	30 tablets	80 milligram	II

32. During Respondent's care of Patient D, Respondent failed to attempt to reduce the dosages and/or combinations of prescription medication being prescribed to Patient D. Instead, throughout his care of Patient D, from on or about May 4, 2010, through on or about May 7, 2013, Respondent continued to prescribe Patient D high levels of opiates combined with benzodiazepines.

33. On or about May 16, 2013, Patient D died. The County of Sacramento Department of Coroner determined that the cause of Patient D's death was due to acute morphine toxicity.

34. Respondent committed the following repeated negligent acts in his care of Patient D, which included but was not limited to, the following:

a.) Between on or about March 20, 2012 and on or about May 7, 2013, Respondent failed to attempt to taper Patient D off of the large quantity of prescription drugs she was being prescribed, and decrease use of concurrent benzodiazepines.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Records)

35. Respondent's license is subject to disciplinary action under section 2266, of the Code, in that he failed to maintain adequate and accurate medical records relating to his care and treatment of Patient A, Patient B, and Patient C, as more fully described in paragraphs 17 through 26, above, and those paragraphs are incorporated by reference as if fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

36. Respondent is further subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming of a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 17 through 35, above, which are hereby realleged and incorporated by reference as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. G 73271, issued to David Allen Padilla, M.D.;

2. Revoking, suspending or denying approval of David Allen Padilla, M.D.'s authority to supervise physician assistants and advanced practice nurses;

3. Ordering David Allen Padilla, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED:
March 28, 2019

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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